

CCRB INVESTIGATIVE RECOMMENDATION

Investigator: Emily Devaney	Team: Squad #04	CCRB Case #: 202105736	<input type="checkbox"/> Force	<input checked="" type="checkbox"/> Discourt.	<input checked="" type="checkbox"/> U.S.
			<input checked="" type="checkbox"/> Abuse	<input checked="" type="checkbox"/> O.L.	<input type="checkbox"/> Injury
Incident Date(s) Friday, 09/24/2021 8:00 AM, Tuesday, 08/16/2022 12:00 AM	Location of Incident: Rockaway Boulevard and 149th Street	18 Mo. SOL 3/24/2023	Precinct: 113		
Date/Time CV Reported Fri, 09/24/2021 8:25 AM	CV Reported At: CCRB	How CV Reported: Call Processing System	Date/Time Received at CCRB Fri, 09/24/2021 8:25 AM		

Complainant/Victim	Type	Home Address

Subject Officer(s)	Shield	TaxID	Command
1. POM Mark Gaiardelli	00555	941786	113 PCT
2. PO Richard Stremel	00998	894955	113 PCT

Officer(s)	Allegation	Investigator Recommendation
A . POM Mark Gaiardelli	Abuse: Police Officer Mark Gaiardelli stopped the vehicle in which § 87(2)(b) and § 87(2)(b) were an occupants.	
B . PO Richard Stremel	Abuse: Police Officer Richard Stremel stopped the vehicle in which § 87(2)(b) and § 87(2)(b) were occupants.	
C . POM Mark Gaiardelli	Discourtesy: Police Officer Mark Gaiardelli acted discourteously toward § 87(2)(b)	
D . POM Mark Gaiardelli	Off. Language: Police Officer Mark Gaiardelli made remarks to § 87(2)(b) and § 87(2)(b) based upon race.	
E . POM Mark Gaiardelli	Discourtesy: Police Officer Mark Gaiardelli spoke discourteously to § 87(2)(b) and § 87(2)(b)	
F . POM Mark Gaiardelli	Untruthful Stmt.: Police Officer Mark Gaiardelli provided a misleading official statement to the CCRB.	

Case Summary

On September 24, 2021, § 87(2)(b) filed this complaint with the CCRB on behalf of himself and § 87(2)(b).

On September 24, 2021, at approximately 8:00 a.m., Police Officers Mark Gaiardelli and Richard Stremel from the 113th Precinct stopped the vehicle in which § 87(2)(b) and § 87(2)(b) were occupants (**Allegations A-B: Abuse of Authority**, § 87(2)(g) PO Gaiardelli allegedly took § 87(2)(b) identification in a disrespectful manner (**Allegation C: Discourtesy**, § 87(2)(g) PO Gaiardelli called § 87(2)(b) and § 87(2)(b) a “bunch of animals” and “idiots” (**Allegation D: Offensive Language**, § 87(2)(g) **Allegation E: Discourtesy**, § 87(2)(g) The investigation found that PO Gaiardelli provided a misleading official statement to the CCRB on August 16, 2022 (**Allegation F: Untruthful Statement**, § 87(2)(g).

The investigation obtained body-worn camera (BWC) videos from PO Gaiardelli and PO Stremel (Board Review 01-02).

Findings and Recommendations

Allegation (A) Abuse of Authority: Police Officer Mark Gaiardelli stopped the vehicle in which § 87(2)(b) and § 87(2)(b) were occupants.

Allegation (B) Abuse of Authority: Police Officer Richard Stremel stopped the vehicle in which § 87(2)(b) and § 87(2)(b) were occupants.

§ 87(2)(b) testified that he and § 87(2)(b) were both seated in the front seats wearing seat belts when PO Gaiardelli and PO Stremel stopped them (Board Review 03). They had their seat belts fastened since initially getting in the car.

PO Gaiardelli testified that he saw § 87(2)(b) and § 87(2)(b) without their seat belts fastened as they drove past him (Board Review 04). PO Gaiardelli stopped § 87(2)(b) and § 87(2)(b) to issue them summonses for failing to wear a seat belt and for no other reason.

The body-worn camera (BWC) videos did not capture whether § 87(2)(b) and § 87(2)(b) were wearing seatbelts at the time (Board Review 01-02).

Summonses #§ 87(2)(b) and #§ 87(2)(b) cited § 87(2)(b) and § 87(2)(b) for violating VTL 1229-C, failing to wear a seatbelt (Board Review 05).

NY Vehicle and Traffic Law §1229-C states that no person shall operate a motor vehicle unless such person and all front seat passengers are restrained by a safety belt (Board Review 06).

§ 87(2)(g)
§ 87(2)(g)
§ 87(2)(g)

Allegation (C) Discourtesy: Police Officer Mark Gaiardelli acted discourteously toward § 87(2)(b).

§ 87(2)(b) testified that he handed his identification card to PO Gaiardelli who “snatched” it from his hand in a disrespectful manner (Board Review 03). PO Gaiardelli took § 87(2)(b) identification so quickly that the contact between their two hands made an audible sound.

PO Gaiardelli’s body-worn camera (BWC) video showed this portion of the interaction beginning at the 1:17 minute-mark of the player’s timestamp (Board Review 01). PO Gaiardelli asked § 87(2)(b).

§ 87(2)(b) for his license and registration and § 87(2)(b) for his identification twice. § 87(2)(b) and § 87(2)(b) denied that they were not wearing their seat belts. At 1:42, § 87(2)(b) handed his identification to PO Gaiardelli who took it from him with his left hand. PO Gaiardelli's hand did not appear to make contact with any part of § 87(2)(b) nor did it create a sound.

§ 87(2)(g)

Allegation (D) Offensive Language: Police Officer Mark Gaiardelli made remarks to § 87(2)(b) and § 87(2)(b) based upon race.

Allegation (E) Discourtesy: Police Officer Mark Gaiardelli spoke discourteously to § 87(2)(b) and § 87(2)(b)

PO Gaiardelli's BWC video showed that after receiving § 87(2)(b) identification in his left hand, PO Gaiardelli stated, "Learner's permit... bunch of animals," at the 2:12 minute-mark (Board Review 01). The video's hardcoded timestamp at this point reads, "08:00:50." PO Gaiardelli says to PO Stremel, "Just grab it from him. I don't need the paperwork. I'll run everything. I don't have time for these idiots," at the 2:27 minute-mark of the player's timestamp.

PO Stremel's BWC video showed PO Gaiardelli through the driver's and passenger's windows on the other side of the car as PO Stremel (Board Review 02). At the 2:13 minute-mark of the player's timestamp and the 08:00:49 minute-mark of the hardcoded timestamp, PO Gaiardelli is shown with his right hand at or against his chest and looking straight ahead as he walks in the direction of his police vehicle. When PO Stremel goes to the other side of the car approximately 15 seconds later at 2:29, PO Gaiardelli did not appear to have anything in his right or left hand.

PO Gaiardelli did not recall a comment referencing animals (Board Review 04). He recalled that he referred to § 87(2)(b) and § 87(2)(b) as "idiots" to PO Stremel because they were giving him a "hard time" and "playing games." PO Gaiardelli made this comment because he was "heated" and for no other reason. The comment did not serve a law enforcement purpose. After viewing his BWC video, PO Gaiardelli acknowledged making the comment about animals, but he stated that it was in reference to something on his phone. PO Gaiardelli testified that he was holding his phone at the time and that he was responding to a message. PO Gaiardelli did not recall what the message was about or what he meant by the comment.

The investigation determined based on a preponderance of the BWC evidence that PO Gaiardelli was not holding his phone in his hands at the time of incident.

According to NYPD Patrol Guide Procedure 200-02, officers should treat every citizen with compassion, courtesy, professionalism, and respect (Board Review 07). Furthermore, officers should not use discourteous or disrespectful remarks regarding another person's age, ethnicity, race, religion, gender, gender identity/expression, sexual orientation, or disability, per NYPD Administrative Guide Procedure 304-06 (Board Review 08).

Explicitly or metaphorically comparing people to animals is a known form of dehumanization with negative consequences that disproportionately target people of African descent, as discussed in "Dehumanization and Infrahumanization" from the *Annual Review of Psychology* 65:399-423 (Board Review 09). One of the bases of this comparison is the belief that humans are distinguished from animals on attributes such as cognitive capacity, civility, and refinement. An example of this kind of dehumanization and its consequences are shown in the study "Not Yet Human: Implicit

Knowledge, Historical Dehumanization, and Contemporary Consequences” which found that associating Black people with apes in a criminal justice context increases the endorsement of violence against Black suspects, *Journal of Personality and Social Psychology*, 94(2):292-306 (Board Review 10).

PO Gaiardelli’s comment referring to § 87(2)(b) and § 87(2)(b) as animals was not only disrespectful, but it also exemplified a known form of prejudice that disproportionately targets people of color. Additionally, the fact that PO Gaiardelli referred to § 87(2)(b) and § 87(2)(b) as “idiots” afterwards deepened this dehumanizing comparison on the grounds of cognitive capacity. § 87(2)(g)

§ 87(2)(g)

§ 87(2)(g)

Allegation (F) Untruthful Statement: Police Officer Mark Gaiardelli provided a misleading official statement to the CCRB.

When confronted with the video evidence that he made an offensive remark at the 20:30 minute-mark of the interview, PO Gaiardelli stated that the comment was directed at his phone and was unrelated to § 87(2)(b) and § 87(2)(b) (Board Review 04). However, he did not have any recollection of what he was referencing on his phone or making the statement at all.

As noted above, PO Stremel’s BWC showed that PO Gaiardelli was not using his phone at the time (Board Review 02).

According to NYPD Patrol Guide Procedure 203-08, officers are prohibited from intentionally making a misleading official statement (Board Review 11). A misleading statement is a statement intended to misdirect the fact finder and materially alter the narrative by making repeated claims of “I do not remember” when a reasonable person under similar circumstances would be aware of such material facts or by altering the prior account when confronted with independent evidence. A material fact is a fact that is relevant to the issue at hand and is essential to the determination of the issue. The alteration of such fact would reasonably result in a different decision or outcome.

Due to the possibility for disciplinary action, there was clear incentive for PO Gaiardelli to alter or omit information from his account. If PO Gaiardelli made the remark about unrelated content on his phone, it is possible that the remark would not be considered offensive. § 87(2)(g)

§ 87(2)(g)

§ 87(2)(g)

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§ 87(2)(g)

§ 87(2)(g)

Civilian and Officer CCRB Histories

- This is the first CCRB complaint to which § 87(2)(b) has been a party (Board Review 12).
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- PO Gaiardelli has been a member of service for 16 years and has been a subject in 12 additional CCRB complaints and 18 allegations, of which one was substantiated (Board Review 13):
 - 201804246 involved a substantiated allegation of discourtesy. The Board recommended Command Level Instructions, and the NYPD imposed Instructions.
 - Despite only one substantiation, PO Gaiardelli has been a subject in nine discourtesy allegations and four offensive language allegations. While two of the discourtesy allegations were unfounded, the investigations into the remaining discourtesies and offensive language allegations were either mediated or unable to make a determination on

the merits. § 87(2)(g)


- PO Stremel has been a member of service for 34 years and has been a subject in seven additional CCRB complaints and ten allegations, none of which were substantiated (Board Review 14). § 87(2)(g)

Mediation, Civil, and Criminal Histories

- This complaint was not suitable for mediation.
- A notice of claim inquiry was submitted to the New York City Office of the Comptroller, and the results will be added to the case file upon receipt (Board Review 15).

- [§ 87(2)(b)] [§§ 86(1)(3)&(4)] [§ 87(2)(c)]

Squad: 4

Investigator:		Inv. Devaney	09/20/2022
	Signature	Print Title & Name	Date

Squad Leader:	Raquel Velasquez	IM Raquel Velasquez	09/21/2022
	Signature	Print Title & Name	Date

Reviewer:			
	Signature	Print Title & Name	Date